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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,920	06/28/2007	Patrick James McNaughton	18333.1.23.1.1	6593
22850 7590 12/28/2010 INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET, SUITE 4000 MINNEAPOLIS, MN 55402				
EXAMINER HOGAN, JAMES SEAN				
ART UNIT		PAPER NUMBER		
3752				
NOTIFICATION DATE		DELIVERY MODE		
12/28/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IP@FREDLAW.COM

### Office Action Summary

**Application No.**

10/599,920

**Applicant(s)**

MCNAUGHTON, PATRICK JAMES

**Examiner**

JAMES S. HOGAN

**Art Unit**

3752

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-28, 35-43 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-43 and 45-48 is/are allowed.
- 6) ☒ Claim(s) 4 and 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to all remaining claims have been considered but are moot on the view of the combination of Richman et al in view of Jönsson et al. It is the opinion of the Examiner that a modification of Richman et al, specifically, the bypass of the wiper fluid being eliminated to conform to the new claim amendment would not destroy the Richman reference as claimed. A thorough re-reading of the Specification has not yielded an absolute requirement of there only being a single washer fluid flow path, and thus it shall be treated as new matter, as Applicant has attempted to include this limitation as part of an amendment to the Specification that is clearly an afterthought in an attempt to circumvent the prior art.

***Specification***

2. The amendment filed October 6, 2010 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "As shown in FIGS. 11 and 12, a single washer fluid flow path extends between the washer fluid supply reservoir 70 and the nozzle 71."

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 17, 35, 49 and all claims depending from (18-28) are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The inclusion that the claimed system being required to only have a single washer fluid flow path is not detailed in the Specification and is therefore new matter in association of the state claims.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,364,010 to Richman et al in view of U.S. Patent No. 5,950,715 to Jönsson et al.
3. As per claims 17 and 25, Richman et al teaches generic washing system having nozzle means (108) for washing a window and a chamber for containing a washer fluid (106) and a generic heat exchanger (200) with a wiper fluid inlet (A) to allow wiper fluid to enter the heat exchanger and a wiper fluid outlet (b) to allow the wiper fluid to exit the heat exchanger, the heat exchanger having a coolant passage traversing through the

heat exchanger having a coolant inlet (C) and a coolant outlet (D), the coolant inlet and coolant outlet operably coupled to an engine's coolant system (100, 104) to allow passage of engine coolant through the heat exchanger. A pump for pumping the washer fluid is not shown in any depictions of the system of Richman, but is disclosed (Col. 1, lines 33-40), and is inherently along a fluid flow path of the wiper fluid. Means of circulation for the coolant are also disclosed as part of a vehicle coolant system. As for Richman et al having a bypass washer fluid line, the elimination of the line would not hinder the overall performance of the device, and its existence does not provide an insurmountable hindrance. However, the heat exchanger of Richman et al does not teach plate passages. Jönsson et al teaches a heat exchanger entirely capable of acting as the heat exchanger in the depicted system of Richman et al, the heat exchanger having an inlet (5) that can be connected to the wiper fluid chamber and an outlet (6) that can be connected to the nozzle means. As such it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the heat exchanger of Jönsson in the system of Richman et al in order to exchange heat in a manner more efficient than a tubing wrap, and to introduce a component that can be readily installed for any exchanging purpose as per engineering intent.

4. As per claim 26 and 27, the passages for both fluids travel a "spiral" from inlet to outlet, and can be interpreted as trenches. As per claim 28, the two differing passages, interpreted as trenches of Jönsson designated by inlets ((5,) and (7)) and outlets ((6) and (8)) travel in opposite directions (See figure 1).

5. Summarily, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the heat exchanger of Jönsson in the system of Richman et al in order to exchange heat in a manner more efficient than a tubing wrap, and to expect immediate wiper fluid warming once installed with no pull on the electric system of any vehicle it is installed in.

***Allowable Subject Matter***

6. Claims 18-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcoming the 35 USC § 112 rejection as outlined above.

7. Claims 35-43, and 45-48 are allowed

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES S. HOGAN whose telephone number is (571)272-4902. The examiner can normally be reached on Mon-Fri, 7:30a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. H./  
Examiner, Art Unit 3752  
12.10.10

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752